

PATENT IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: AN, JINHUA *et al.*

INT'L FILING DATE: FEBRUARY 7, 2005

SERIAL NO.: 10/588,883

FOR: **METHODS FOR ISOLATION OF
TRIPTOLIDE COMPOUNDS FROM TRIPTRYGIUM
WILFORDII**

EXAMINER: MABRY, JOHN

ART UNIT: 1625

CONFIRMATION No.: 4457

**STATEMENT OF FACTS UNDER 37 C.F.R. §1.705(b)(2) IN SUPPORT OF
REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This statement of facts is being submitted in support of a Request for Recalculation of Patent Term Adjustment (PTA) in the above-referenced patent application, and is timely submitted before payment of the issue fee. Consideration of the remarks presented herein is respectfully requested.

With the Notice of Allowance mailed June 17, 2011, the estimated patent term was 573 days. However, this application was filed as a national phase filing under 35 U.S.C. § 371, and Applicants note that, under 37 C.F.R. § 1.702(b), for a national phase filing, the actual filing date is the date that the national stage commenced under 35 U.S.C. § 371(b) or (f) (i.e., 30-months from the earliest priority date, or when applicant explicitly requests early processing, respectively), rather than under 35 U.S.C. § 371(c) (the date that the executed inventor declaration was filed). Applicants believe the Patent Office has improperly used the 35 U.S.C. § 371(c) date (i.e., 8 May 2007) for the present application in its calculation, while the actual filing date of 9 August 2006 is the date from which Patent Term Adjustment should be calculated.

Applicants submit that, due to an incorrect PTA calculation under 37 C.F.R. 1.702(b), the correct Patent Term Adjustment should be 846 days.

A. Statement of facts

There is one instance of Patent Office delay under 37 C.F.R. §§1.702(a) and 1.702(b) that would lead to an addition of PTA days and one instance of Applicant delay under 37 C.F.R. §1.704 that would lead to a reduction in PTA days. Applicants' calculations are detailed below.

1. PTA calculation for the 10/588,883 application begins with its filing under 35 U.S.C. § 371(b) on 9 August 2006. Under 35 U.S.C. §154(b)(1)(A)(i) and 37 C.F.R. §1.702(a)(1), the Office must mail a notification under 35 U.S.C. §132 or a notice of allowance under 35 U.S.C. §151 not later than 14 months after the filing date of the application. 14 months from the filing date of the application was 9 October 2007 (not 8 July 2008, the date the Office has used in their calculation). Because the first Office Action was not mailed until 6 May 2010, Applicants are entitled to a credit for the Office's "period A" delay from the day after the 14-month deadline, 10 October 2007, until the first actionable notification from the Office under 35 U.S.C. §132 was mailed on 6 May 2010. This Office delay results in a credit of 940 days PTA.

2. As noted above, the first Office Action was mailed on 6 May 2010, and Applicants' response was filed with a request for a three-month extension of time on 8 November 2010. Applicants' delay resulted in a debit of 94 days PTA.

3. Thus, the total number of days of PTA should be the sum of 940 days of credit due to Office delays minus 94 days of debit due to Applicant delays = 846 days of PTA.

Applicants respectfully request reconsideration and a recalculation of the Patent Term Adjustment indicated on the Notice of Allowance, mailed 17 June 2011, for the above-identified application. Applicants herein apply for an adjustment of the patent term.

B. Payment of fee under §1.18(e)

The required fee under 37 C.F.R. §1.18(e) accompanies this statement of facts in support of this petition. Applicants hereby authorize the Patent Office to charge any other fees that may be due to Deposit Account 50-4616. Because this request is being filed concurrently with the payment of the issue fee, it is timely filed.

Respectfully submitted,
KING & SPALDING LLP

Date: 16 September 2011

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